

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 10913 of 1996

Between:-

Visakhapatnam Co-operative Central Stores Limited
(Super Bazar), Visakhapatnam-represented by its
Managing Director, Main Road, Visakhapatnam. ..
Petitioner.

— And

The Deputy Commissioner of Labour,
(2nd Appellate Authority under the shops and
Establishments Act, 1988), Visakhapatnam Region,
Visakhapatnam and others. ..
Respondents

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ORDER:-

In this writ petition, the petitioner questioned the validity of the order of the Assistant Commissioner of Labour, Visakhapatnam, the 2nd respondent herein, passed in FAMP.No.1 of 1992 dated 31.12.1992 whereby he directed reinstatement of the 3rd respondent into the petitioner's service.

In the averments contained in the affidavit filed in support of the writ petition, it is mentioned that the petitioner before filing this writ petition filed second appeal before the Deputy Commissioner of Labour, Visakhapatnam, the 1st respondent herein, under Section 48 (3) of A.P. Shops and Establishment Act, 1988. It is also stated that the petitioner made a deposit of Rs.37,000/- under pay order, dated 29.04.1993, drawn in favour of Assistant Commissioner of Labour, the 2nd respondent, as a pre-condition for filing appeal. As the said pay order was not accepted on the ground that it was not taken in favour of the 3rd respondent, the appeal was not entertained, and the petitioner therefore filed W.P.No.19882 of 1994 in this Court questioning the action of the appellate authority in not entertaining the appeal. It is further stated in the affidavit that initially, this Court granted stay of

proceedings before the jurisdictional Magistrate initiated by the 3rd respondent for recovery of backwages, and that later the same was vacated for non-compliance of the interim order. It is further stated that while that writ petition was pending, the present writ petition is filed in order to question the order of the 2nd respondent, which was the subject matter of appeal before the 1st respondent.

At the hearing, the learned counsel for the petitioner, to the query posed by this Court regarding the status of W.P.No.19882 of 1994, submitted that the said writ petition was subsequently disposed of giving liberty to the petitioner to pursue the appeal before the 1st respondent.

From the aforementioned facts, it is clear that the petitioner availed the statutory remedy of appeal before the 1st respondent, and when certain objections were raised to entertain the appeal, he filed W.P.No.19882 of 1994 before this Court. It is not known why the petitioner filed this Writ Petition questioning the very same order of the 2nd respondent, which was the subject matter of the statutory appeal. This writ petition was in fact, as already noted above, filed when the earlier writ petition was pending. To me, it appears that the present writ petition is thoroughly misconceived for the reasons that the petitioner already availed the statutory remedy of appeal, and also this Court disposed of the earlier writ petition relegating the petitioner to the appeal to be pursued before the 1st respondent. Ordinarily, this Court would not entertain a

writ petition when effective alternative remedy is available to a party. In this case, it is not the case of the petitioner that the remedy of appeal is not an efficacious one. On the other hand, the petitioner already availed the remedy of appeal, and it is not open to him to pursue parallel remedies by filing the present writ petition without pursuing the appeal filed by him before the 1st respondent.

For the aforementioned reasons, the writ petition is devoid of merit and substance, and therefore, the same is dismissed, but in the circumstances without costs.

(C.V.NAGARJUNA REDDY,J)

29.01.2007
VV/IBL